

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**Appellant:** Katsuya Tsunogai  
**Serial No.:** 10/053,791  
**Filing Date:** 01/22/2002  
**Examiner:** Alam, Uzma  
**Art Unit:** 2157  
**Conf. No.:** 4276  
**Docket No.:** JP920000423US1  
**Title:** Managing Requests for Connection to a Server

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
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### BRIEF OF APPELLANTS

This is an appeal from the Final Rejection dated December 12, 2007, rejecting claims 3-5 and 27-36. This Brief is accompanied by the requisite fee set forth in 37 C.F.R. 1.17 (c).

### REAL PARTY IN INTEREST

International Business Machines Corporation is the real party in interest.

### RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

## STATUS OF CLAIMS

As filed, this case included claims 1-26. Claims 1-2 and 6-26 have been cancelled. Claims 27-36 were added in the After-Final Amendment dated March 23, 2007. Claims 3-5 and 27-36 remain pending, stand rejected, and form the basis of this appeal.

## STATUS OF AMENDMENTS

An After-Final Response has not been filed in response to the Final Action dated December 12, 2007.

## SUMMARY OF CLAIMED SUBJECT MATTER

The present invention (independent claim 3) provides a server (see, e.g., accepting server 30, FIG. 1; page 9, line 26 - page 10, line 13) for accepting accepting connection requests from client terminals (see, e.g., client terminals 20, FIG. 1; page 9, lines 19-25)) through a network (see, e.g., network 10, FIG. 1).

With regard to independent claim 3, the accepting server 30 includes a connection-order setting unit (see, e.g., connection management section 31, FIG. 1; page 10, line 24 - page 11, line 6). Upon receiving a first connection request from a first client terminal of the client terminals, the connection management section 31 sets an order of connection for the first client terminal (see, e.g., page 10, line 24 - page 11, line 6; connection queue data holding section 35, FIG. 1;

connection-right acquired pool section 36, FIG. 1; flowchart, FIG. 2; and page 12, line 3 - page 24).

With further regard to independent claim 3, a connection managing unit (see, e.g., connection management section 31, FIG. 1; page 11, lines 2-28; flowchart, FIG. 8; page 18, line 29 - page 19, line 12) allows connection of the client terminals 20 according to the order of connection, upon receiving a second connection request from a second client terminal of the client terminals after the first connection request. A program automatically executes the second connection request again after a predetermined time interval is transmitted to the client terminal to which the order of connection has been set (see, e.g., page 18, line 15 - page 19, line 12; flowchart, FIG. 9).

#### GROUND OF REJECTION TO BE REVIEWED ON APPEAL

(1) Whether claims 3-5 and 27-36 are unpatentable under 35 U.S.C. §103(a) over Bhoj et al. (U.S. Patent No. 6,742,016), hereafter “Bhoj,” in view of Roberts et al. (U.S. Patent No. 6,754,693), hereafter “Roberts.”

#### ARGUMENT

(1) Rejection of claims 3-5 and 27-36 under 35 U.S.C. §103(a) over Bhoj in view of Roberts.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the

references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP § 2143.

Appellant submits that the rejection under 35 U.S.C. §103(a) is defective because Bhoj and Roberts, taken alone or in combination, fail to disclose each and every feature of the claimed invention.

Independent claim 3 recites:

“A server for accepting connection requests from client terminals through a network, comprising:  
a connection-order setting unit which, upon receiving a first connection request from a first client terminal of said client terminals, sets an order of connection for said first client terminal;  
and  
a connection managing unit for allowing connection of said client terminals according to said order of connection, upon receiving a second connection request from a second client terminal of said client terminals after said first connection request;  
wherein a program for automatically executing said second connection request again after a predetermined time interval is transmitted to said client terminal to which said order of connection has been set.”

Regarding claim 3, as admitted by the Examiner, Bhoj does not teach “a program for automatically executing said second connection again is transmitted to said client terminal to which said order of connection has been [set].” To

remedy this glaring deficiency in Bhoj, the Examiner relies on the disclosure of Roberts. In particular, the Examiner asserts that “Roberts teaches wherein a program for automatically executing said second connection request again is transmitted to said client terminal to which said order of connection has been set (column 10, lines 7-38; column 16, lines 40-67).” Appellant respectfully disagrees with the Examiner’s analysis of Roberts.

Appellant submits that the sections of Roberts cited by the Examiner, as well as Roberts taken as a whole, do not disclose, *inter alia*, “wherein a program **for automatically executing said second connection request again after a predetermined time interval is transmitted to said client terminal to which said order of connection has been set.**” On the contrary, none of the applets downloadable by the server 20 in Roberts to a user computer 12 provides this functionality.

Accordingly, Appellant submits that claims 3-5 and 27-36 are allowable.

Respectfully submitted,

/ John A. Merecki /

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## CLAIMS APPENDIX

3. A server for accepting connection requests from client terminals through a network, comprising:

a connection-order setting unit which, upon receiving a first connection request from a first client terminal of said client terminals, sets an order of connection for said first client terminal; and

a connection managing unit for allowing connection of said client terminals according to said order of connection, upon receiving a second connection request from a second client terminal of said client terminals after said first connection request;

wherein a program for automatically executing said second connection request again after a predetermined time interval is transmitted to said client terminal to which said order of connection has been set.

4. The accepting server according to Claim 3, wherein

data of said order of connection set by said connection-order setting unit is transmitted to said first client terminal; and

said first client terminal is caused to display connection-order information, based on said data.

5. The accepting server according to Claim 3, further comprising a

connection-number monitoring unit for monitoring a number of connectable client terminals,

wherein said connection managing unit allows connection of one of said client terminals which is highest in said order of connection, after acceptance of connection of a new client terminal has become possible, based on a number of connectable client terminals obtained by said connection-number monitoring unit.

27. The accepting server according to Claim 3, further comprising:

a maximum-connection-number setting counter for setting a maximum number of connections that can be connected simultaneously to the server;

a connection-number counter for indicating a number of client terminals connected to the server; and

a connectable-number counter for indicating a number of client terminals that can be connected to the server.

28. The accepting server according to Claim 27, wherein the connection managing unit is configured to allow connection of one of the client terminals which is highest in the order of connection, after acceptance of connection of a new client terminal has become possible, based on the number of connectable client terminals indicated by the connectable-number counter.

29. The accepting server according to Claim 28, wherein the connection managing unit is configured to allow the connection when the number of connectable client terminals indicated by the connectable-number counter is at least one.

30. The accepting server according to Claim 27, further comprising:

a connection queue data holding section; and

a connection-right acquired pool section.

31. The accepting server according to Claim 30, wherein the connection managing unit is configured to allow the connection when the number of connectable client terminals indicated by the connectable-number counter is at least one; and wherein the connection managing unit is configured to not allow the connection when the number of connectable client terminals indicated by the connectable-number counter is less than one.

32. The accepting server according to Claim 31, wherein the connection managing unit is configured to issue a reference number to the client terminal whose connection is not allowed, the reference number indicating connection priority to the client terminal, and wherein the connection managing unit is configured to add the reference number to a connection queue in the connection queue data holding section.

33. The accepting server according to Claim 32, wherein the connection managing unit is configured to send data associated with the reference number back to the client terminal.



34. The accepting server according to claim 32, wherein the connection managing unit is configured to determine if there is a connection queue in the a connection queue data holding section, upon receipt of a notification to release a right of connection

35. The accepting server according to claim 34, wherein the connection managing unit is configured to decrement the number in the connection-number counter by one, in the case there is no connection queue.

36. The accepting server according to claim 34, wherein the connection managing unit is configured to transfer a reference number, highest in priority order, to the connection-right acquired pool section, in the case there is a connection queue.

## EVIDENCE APPENDIX

No evidence has been submitted.

## RELATED PROCEEDINGS APPENDIX

There are no related proceedings.